

ESTTA Tracking number: **ESTTA360034**

Filing date: **07/26/2010**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92052576
Party	Defendant The Lester M Griffin and Lavaniel W Griffin Partnership
Correspondence Address	LESTER M GRIFFIN & LAVANIEL W GRIFFIN 314 W 223 ST #12 CARSON, CA 90745 UNITED STATES
Submission	Answer
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Date	07/26/2010
Attachments	ANSWER TO PETITION TO CANCEL CINQUE.pdf ( 4 pages )(265359 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

**In re: Reg. No. 3,104,426**

Cinque Moda GmbH	)	<b>DOCKET No.: TM/CINQUE</b>
	)	
Petitioner,	)	<b>CANCELLATION NO. 92052576</b>
	)	
vs.	)	
	)	
LESTER M. GRIFFIN and LAVANIEL W.	)	
GRIFFIN, A California Partnership	)	
	)	
Respondent.	)	
	)	
	)	
	)	

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Trademark Trial and Appeal Board  
U.S. Patent and Trademark Office  
P.O. Box 1451  
Alexandria, VA 22313-1451

**ANSWER TO PETITION TO CANCEL**

Respondent Lester M. Griffin and Lavaniel W. Griffin, a California Partnership (“Respondent”), by its undersigned attorney, as and for its Answer to the Petition to Cancel allege as follows:

1. With regard to the introductory paragraph, denies knowledge or information sufficient to form a belief as to the truth of the allegations regarding Petitioner’s citizenship and therefore denies those allegations of Petitioner’s belief that it will be damaged by Registration No.: 3,104,426 (“Registration”), admits that Petitioner

filed the instant Petition to Cancel, and otherwise denies any remaining allegations in the introductory paragraph.

2. Admits the allegations contained in paragraph 1 that Respondent, the current owner of the Registration, is located at 314 West 223 Str., Carson, #12, California 90745 and denies the remaining allegations contained in paragraph 1.

3. Admits the allegations in paragraph 2 that Respondent's Registration for "Cinque" issued on June 13, 2006 in class 25 for "pants, shirts, jackets, shoes, hats, t-shirts."

4. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3, and therefore denies those allegations and affirmatively avers that application Serial No. 77/544.035 filed on August 11, 2008 for the mark CINQUE and Design is pending before the United States Patent and Trademark Office, and otherwise denies the remaining allegations contained in paragraph 3.

5. Admits the allegations in paragraph 4 that Petitioner's application [for the mark CINQUE and Design] was refused, and otherwise denies the remaining allegations contained in paragraph 4.

6. Denies the allegations in paragraph 5 that Respondent has abandoned its said Registration by discontinuing use of said mark "Cinque" in commerce in connection with the said goods with no intent to resume.

7. Denies the allegations in paragraph 6 that Reg. No. 3,104,426 should never have registered based on a prior registered mark Reg. No.: 2,164,766 for the mark "Cinq" for blouses, sweaters, shirts."

8. Denies the allegations in paragraph 7 that Petitioner is likely to be damaged by continuance of the Registration in that Petitioner is foreclosed from registering its mark CINQUE and Design for suits, trouser-suits, two-piece skirt suits, trousers, jeans, skirts, jackets, blazers, coats, scarves, belts, footwear and headgear, namely, hats and caps currently pending in the United States Patent and Trademark Office in view of Respondent's abandonment of the mark.

AS AND FOR A  
**FIRST AFFIRMATIVE DEFENSE**

9. Petitioner's Petition to Cancel fails to state any claim upon which relief may be granted.

AS AND FOR A  
**SECOND AFFIRMATIVE DEFENSE**

10. Petitioner's claims are barred by the doctrines of waiver and estoppel.

AS AND FOR A  
**THIRD AFFIRMATIVE DEFENSE**

11. Petitioner lacks standing to initiate the cancellation proceeding whereas the Petitioner is not likely to be damaged by the registration of Respondent's mark.

AS AND FOR A  
**FOURTH AFFIRMATIVE DEFENSE**

12. Respondent asserts, upon information and belief, Petitioners have not been, are not and will not be damaged by the continued registration of Respondent's registered mark.

AS AND FOR A  
**FIFTH AFFIRMATIVE DEFENSE**

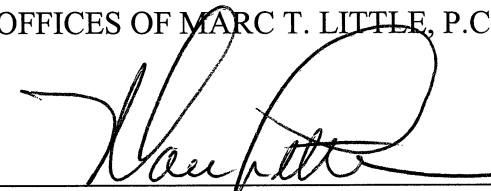
13. Respondent is entitled under law to register the mark, the mark is in use in commerce, and has not been abandoned.

WHEREFORE, Respondent respectfully requests that the Board dismiss this cancellation proceeding in its entirety.

Dated: July 26, 2010

LAW OFFICES OF MARC T. LITTLE, P.C.

By: \_\_\_\_\_

  
Marc T. Little, Esq.  
Attorney for Respondent  
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**CERTIFICATE OF TRANSMITTAL**

I hereby certify that a true copy of the foregoing ANSWER TO PETITION TO CANCEL is being filed electronically with the TTAB via ESTTA on this day, July 26, 2010.

By: \_\_\_\_\_


  
Marc T. Little, Esq.

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing ANSWER TO PETITION TO CANCEL, was deposited with the United States Postal Service, First Class Mail on this day, July 26, 2010 addressed to:

Ursula B. Day  
708 Third Avenue, Ste. 1501  
New York, NY 10017

By: \_\_\_\_\_

  
Marc T. Little, Esq.